

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**SITO MOBILE R&D IP, LLC, and
SITO MOBILE, LTD.,**

Plaintiffs,

v.

FLOSPORTS, INC.,

Defendant.

Case No. 6:20-cv-00471-ADA

JURY TRIAL DEMANDED

PLAINTIFFS' ANSWER TO FLOSPORTS, INC.'S COUNTERCLAIMS

SITO Mobile R&D IP, LLC and SITO Mobile, Ltd. (collectively "Plaintiffs" or "SITO") hereby answer the counterclaims asserted by FloSports, Inc. ("Defendant" or "FloSports") on August 10, 2020 (D.I. 14), in FloSport's Answer to Original Complaint for Patent Infringement and Counterclaims, as follows:

GENERAL DENIAL

Pursuant to Fed. R. Civ. P. 8(b)(3), SITO denies all allegations in FloSport's counterclaims except for those specifically admitted below.

Nature of the Action

1. Admitted.

Parties

2. Admitted.

3. Admitted.

4. Admitted.

Jurisdiction and Venue

5. SITO admits that this Court has jurisdiction over the subject matter of these counterclaims under 28 U.S.C. §§ 1331, 1338(a), the patent laws of the United States set forth at 35 U.S.C. §§ 101 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

6. SITO admits that personal jurisdiction over SITO Mobile R&D IP, LLC and SITO Mobile, Ltd. is proper.

7. SITO admits that venue is proper in this judicial district.

COUNT ONE

Declaration of Non-Infringement of the '673, '635, '636, '777, '088, '637 and '846 Patents

8. SITO incorporates by reference its responses to the preceding paragraphs of its Answer to Defendant's counterclaims as if fully set forth here.

9. Admitted.

10. Denied.

11. Denied.

COUNT TWO

Declaration of Invalidity of the '673, '635, '636, '777, '088, '637 and '846 Patents

12. SITO incorporates by reference its responses to the preceding paragraphs of its Answer to Defendant's counterclaims as if fully set forth here.

13. Admitted.

14. Denied.

15. Denied.

PRAYER FOR RELIEF

WHEREFORE, SITO prays for judgment in its favor and against Defendant as follows:

- a. That Defendant take nothing by its counterclaims;
- b. That the Court enter judgment against Defendant and in favor of SITO and that the Defendant's counterclaims be dismissed in their entirety, with prejudice;
- c. That the Court declare that Defendant does infringe and has infringed the claims of the '673, '635, '636, '777, '088, '637 and '846 patents;
- d. That the Court declare that the claims of the '673, '635, '636, '777, '088, '637 and '846 patents are valid;
- e. A declaratory judgment that the patents-in-suit are enforceable;
- f. That the Court deem this an exceptional case under 35 U.S.C. § 285 and award SITO its costs and reasonable attorneys' fees;
- g. That the Court grant SITO the relief requested in SITO's First Complaint for Patent Infringement; and
- h. That the Court grant SITO any and all other further relief that the Court deems just and proper.

Dated: August 31, 2020

Respectfully submitted,

/s/ Raymond W. Mort, III

Raymond W. Mort, III

Texas State Bar No. 00791308

raymort@austinlaw.com

THE MORT LAW FIRM, PLLC

100 Congress Avenue, Suite 2000

Austin, Texas 78701

Tel/Fax: 512-865-7950

Of Counsel:

Ronald M. Daignault (*pro hac vice*)

Chandran B. Iyer (*pro hac vice*)

Jason S. Charkow (*pro hac vice*)

Stephanie R. Mandir (*pro hac vice*)

rdaignault@goldbergsegalla.com

cbiyer@goldbergsegalla.com

smandir@goldbergsegalla.com

GOLDBERG SEGALLA LLP

711 Third Avenue, Suite 1900

New York, New York 10017

Telephone: (646) 292-8700

Attorneys for Plaintiff

SITO Mobile R&D